

ESTTA Tracking number: **ESTTA500246**Filing date: **10/16/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

### Petitioner Information

Name	Lavipharm Group Holding S.A.		
Entity	corporation	Citizenship	Luxembourg
Address	9, rue Clairefontaine Luxembourg, L-1341 LUXEMBOURG		

Correspondence information	Jay A. Bondell Ladas & Parry LLP 1040 Avenue of the Americas New York, NY 10018 UNITED STATES jbondell@ladas.com, elipins@ladas.com, gdeluca@ladas.com Phone:212-708-1800
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### Registration Subject to Cancellation

Registration No	3643663	Registration date	06/23/2009
International Registration No.	NONE	International Registration Date	NONE
Registrant	MEDITERA ITHALAT VE IHRACAT; LIMITED SIRKETI 5758 Sokak. No:4/C Kat:2/3 KARABAGLAR-IZMIR  TURKEY		

### Goods/Services Subject to Cancellation

Class 005.

All goods and services in the class are cancelled, namely: Pharmaceutical preparations for the prevention and treatment of disorders of the nervous system, the immune system, the cardiovascular system, the metabolic system, the respiratory system, the musculo-skeletal system, the genitourinary system; for the treatment of inflammatory disorders; for use in dermatology, oncology, hematology and in tissue and organ transplantation, in ophthalmology and for gastroenterological disorders; chemical preparations for medical purposes, namely, chemical reagents for medical use; pharmaceuticals preparations for the treatment of wounds; pharmaceutical preparations in the nature of birth control pills, vaccines; vitamins; diagnostic preparations for medical use; radioactive substances for nuclear medicine; bacterial preparations for medical purposes, namely, bacteriological cultures; bacteriological preparations for medical purposes; plasters for medical purposes; medicinal alcohol for pharmaceutical purposes; medicinal alcohol for medical purposes; animal sperm; gases for medical purposes; plant extracts for medical, and pharmaceutical purposes; dietetic foods for medical use; food for babies; medicinal herb teas, medicinal teas for slimming purposes, ginseng tea for medicinal purposes; products for dental purposes other than dental tools and equipment, namely, adhesives for dentistry and dental technical purposes; dental cements; denture molding preparations, namely, dental adhesives in the nature of plaster and dental wax; adhesives for dental prosthesis; molding dental wax for dentists; precious metal alloys for dental purposes; hygienic products, namely, tampons, sanitary pads; incontinence sanitary pads; incontinence garments in the nature of pants;

adhesive bandages, surgical bandages, menstruations bandages; bandages for dressings; medicinal herbal extracts for medical purposes, medicinal herbs and herb teas for medical purposes; fungicides; herbicides; antimicrobial coatings to treat the growth of mold, and fungus on various surfaces; air freshening and air purifying preparations; deodorants other than for personal purposes, namely, for use in rooms; all purpose disinfectants; antiseptics for destroying germs; detergents for medical purposes, namely, medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels

**Class 010.**

All goods and services in the class are cancelled, namely: Medical, dental, veterinarian and surgical apparatus and instruments, namely, injection needles, surgical thread, apparatus for artificial respiration, blood pressure measuring apparatus, hearing aids; medical apparatus and equipment, namely, X-ray diagnostic apparatus; nuclear medicine diagnostic imaging apparatus; medical X-ray apparatus; furniture adapted for medical treatment purposes, namely, patient treatment tables, operating tables; electric blankets for medical purposes; air pillows for medical purposes; water beds for medical purposes; electrically heated cushions for medical purposes; massage apparatus for medical purposes; implants consisting of artificial materials, namely, artificial breasts, artificial cartilage, artificial eyes, artificial jaws, artificial joints, artificial limbs, artificial skin for surgical purposes, artificial teeth; medical orthopedic materials, namely, orthopedic support bandages, orthopedic belts, orthopedic braces, orthopedic footwear, abdominal corsets, plaster casts for orthopedic purposes, templates for orthopedic purposes, vertebral orthopedic apparatus, orthopedic soles; surgery dressings, namely, bone repair compounds for use in orthopedic surgery; foot retractors for use in podiatric surgery, surgical gloves, surgical masks, sterilized surgical shoe covers, incontinence sheets; feeding bottles, baby bottle nipples, pacifiers for babies

## Grounds for Cancellation

Abandonment	Trademark Act section 14
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Attachments	Petition to Cancel.pdf ( 5 pages )(198663 bytes )
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## Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Jay A. Bondell/
Name	Jay A. Bondell
Date	10/16/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of U.S. Trademark Registration No. 3,643,663

For the mark "Meditera (Stylized)"

Registration Date: June 23, 2009

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	)	
LAVIPHARM GROUP HOLDING S.A.	)	
	)	
Petitioner,	)	Cancellation No.
	)	
v.	)	
	)	
MEDITERA ITHALAT VE IHRACAT	)	
	)	
Respondent.	)	
-----	X	

PETITION TO CANCEL

Petitioner, Lavipharm Group Holding S.A. ("Petitioner") believes that it is being harmed and damaged by the continued existence of U.S. Trademark Reg. No. 3,643,663 of June 23, 2009 for the mark "Meditera (Stylized)" and accordingly petitions for the cancellation thereof, as follows:

1. Petitioner is a Luxembourg corporation having a business address of 9, rue Clairefontaine Luxembourg L-1341 LUXEMBOURG.
2. Upon information and belief, Meditera Ithalat Ve Ihracat ("Respondent") is a Turkish joint stock company (sirketi) organized under the laws of Turkey having a business address of 5758 Sokak. No:4/C Kat:2/3 Karabaglar-Izmir Turkey.

3. Respondent is the registrant and owner of record for U.S. Trademark Reg. No. 3,643,663 (the "'663 Registration") of June 23, 2009 for the mark "Meditera (Stylized)" filed under the Madrid Protocol (Section 66A of the Trademark Law) for the following goods:

Class 5: Pharmaceutical preparations for the prevention and treatment of disorders of the nervous system, the immune system, the cardio-vascular system, the metabolic system, the respiratory system, the musculo-skeletal system, the genitourinary system; for the treatment of inflammatory disorders; for use in dermatology, oncology, hematology and in tissue and organ transplantation, in ophthalmology and for gastroenterological disorders; chemical preparations for medical purposes, namely, chemical reagents for medical use; pharmaceuticals preparations for the treatment of wounds; pharmaceutical preparations in the nature of birth control pills, vaccines; vitamins; diagnostic preparations for medical use; radioactive substances for nuclear medicine; bacterial preparations for medical purposes, namely, bacteriological cultures; bacteriological preparations for medical purposes; plasters for medical purposes; medicinal alcohol for pharmaceutical purposes; medicinal alcohol for medical purposes; animal sperm; gases for medical purposes; plant extracts for medical, and pharmaceutical purposes; dietetic foods for medical use; food for babies; medicinal herb teas, medicinal teas for slimming purposes, ginseng tea for medicinal purposes; products for dental purposes other than dental tools and equipment, namely, adhesives for dentistry and dental technical purposes; dental cements; denture molding preparations, namely, dental adhesives in the nature of plaster and dental wax; adhesives for dental prosthesis; molding dental wax for dentists; precious metal alloys for dental purposes; hygienic products, namely, tampons, sanitary pads; incontinence sanitary pads; incontinence garments in the nature of pants; adhesive bandages, surgical bandages, menstruations bandages; bandages for dressings; medicinal herbal extracts for medical purposes, medicinal herbs and herb teas for medical purposes; fungicides; herbicides. antimicrobial coatings to treat the growth of mold, and fungus on various surfaces; air freshening and air purifying preparations; deodorants other than for personal purposes, namely, for use in rooms; all purpose disinfectants; antiseptics for destroying germs; detergents for medical purposes, namely, medicated skin care preparations, namely, creams, lotions, gels, toners, cleaners and peels.

Class 10: Medical, dental, veterinarian and surgical apparatus and instruments, namely, injection needles, surgical thread, apparatus for artificial respiration, blood pressure measuring apparatus, hearing aids; medical apparatus and equipment, namely, X-ray diagnostic apparatus; nuclear medicine diagnostic imaging apparatus; medical X-ray apparatus; furniture adapted for medical treatment purposes, namely, patient treatment tables, operating tables; electric blankets for medical purposes; air pillows for medical purposes; water beds for medical purposes; electrically heated cushions for medical purposes; massage apparatus for medical purposes; implants consisting of artificial materials, namely, artificial breasts, artificial cartilage, artificial eyes, artificial jaws, artificial joints, artificial limbs, artificial skin for surgical purposes, artificial teeth; medical orthopedic materials, namely, orthopedic support bandages, orthopedic belts, orthopedic braces, orthopedic footwear, abdominal corsets, plaster casts for orthopedic purposes, templates for orthopedic purposes, vertebral orthopedic apparatus, orthopedic soles; surgery dressings, namely, bone repair compounds for use in orthopedic surgery; foot retractors for use in podiatric surgery, surgical gloves, surgical masks, sterilized surgical shoe covers, incontinence sheets; feeding bottles, baby bottle nipples, pacifiers for babies.

4. Petitioner has filed trademark application Serial No. 85/372,391 for the mark "MEDITERRA" in Classes 3, 5, 6, 29, 30, 31, 32, 35, 41, and 44 based on an intent to use under 17 U.S.C. 1051(b)("Petitioner's Application").

5. The U.S. Patent and Trademark Office has issued a rejection on Petitioner's Application based upon a likelihood of confusion with the Respondent's mark of the '663 Registration.

6. Upon information and belief, the Respondent has failed to make use of the mark of the '663 Registration in U.S. commerce for any of the goods listed in Classes 5 and 10 of the '663 Registration, and in particular, has failed to make use of the mark of the '663 Registration in connection with such goods for at least the prior three consecutive years.

7. Upon information and belief, the Respondent has abandoned the mark in the '663 Registration due to nonuse of the mark for the recited goods with intent not to resume such use.

8. The continued existence of the '663 Registration is likely to cause harm and damage to Petitioner in that Petitioner will be wrongfully prevented from registering its mark in Petitioner's Application and enjoying the benefits that flow from such a registration, all to the detriment of Petitioner.

WHEREFORE, the Petitioner prays that the present petition be granted and Reg. No. 3,643,663 be cancelled, and that Petitioner be granted such other relief as may be warranted.

New York, New York  
October 16, 2012

Respectfully submitted,

Jay A. Bondell ([jbondell@ladas.com](mailto:jbondell@ladas.com))

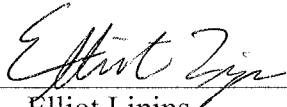


Ladas & Parry LLP  
Attorneys for Petitioner  
1040 Avenue of the Americas  
New York, NY 10018  
(212) 708-1808 (p)  
(212) 246-8959 (f)

CERTIFICATE OF SERVICE

It is hereby certified that on October 16, 2012, a true copy of the foregoing Petition to Cancel is being served by first-class mail, postage prepaid, to Respondent at the following address:

MEDITERA ITHALAT VE IHRACAT  
5758 SOKAK. NO:4/C KAT:2/3  
KARABAGLAR-IZMIR TURKEY

By:   
Elliot Lipins